



ARIZONA

REAL ESTATE BULLETIN

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On-line Edition

Overhaul in the works for Arizona real estate exams

Assessment Systems, Inc., the contractor who designs and administers the Arizona real estate examinations is in the process of a major revision of the "general knowledge" test questions used in Arizona and 26 other states to make them more applicable to today's real estate industry. The revised examinations will appear in Arizona in April or May of next year.

"Although the 'Arizona specific' portion of the exam is revised yearly to reflect changes in Arizona real estate statutes and Commissioner's Rules, this is the first major overhaul of the general knowledge portion of the test in several years," said John Bechtold, the Director of Education and Licensing for the Arizona Department of Real Estate.

The changes were developed by real estate licensing officials from states served by ASI at a meeting in Bala Cynwyd, Pa, in November. "We were all impressed with ASI's very scientific approach to the testing process, and their reasons for wanting to make changes. While the test will not be made easier or more difficult overall, we will be testing for knowledge of contemporary real estate practice. Some of the questions in the existing examinations don't really reflect what's going on in the industry today."

As an example, Bechtold cited de-emphasis of math questions beginning with the new examinations. "Many math questions on the present test address problems most licensees expect a computer or their title agency to answer," he said. "It's unrealistic that licensees would ever encounter these problems and have to solve them with a calculator or by hand as a practical

matter."

Other proposed changes:

- Elimination of all "negative stem" questions, those that are worded "The following are true EXCEPT . . ." ASI has determined that negative stem questions can be confusing and are not the best way to test a prospective licensee's knowledge.

- Although the "general" portion of the test is designed to be applicable in all states, questions unique to other states have found their way into the test in the past. The Arizona "general" portion of the examination will be carefully screened to make sure no "foreign" questions sneak through.

- Some questions in the existing examination fall into what test designers call the "who care's?" category—questions that, although valid, have little application to actual real estate practice.

Arizona's examination comprises 130 questions (80 general knowledge, 50 "Arizona specific") which must be answered in 4 hours or less. Presently, ASI has a bank of 901 questions from which the 80 questions on a particular applicant's test are drawn. The overhaul will reduce this to a bank of approximately 675 questions.

It is most likely that none of the approximately 5,000 applicants who take the Arizona real estate salesperson or broker license examination each year have any appreciation for the work that goes into making sure the test accurately measures a person's real estate knowledge, and at the same

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How could anyone let this happen?

A curious and disturbing trend is developing in the real estate business in Arizona. In the Administrative Actions columns of this issue of the Bulletin, which span a period of only three months, you'll find nine of the 14 Consent Orders involve licensees who failed to renew a license on time but continued to do business—to the tune of nearly \$97,000 in illegal commissions and other income.

In each case except one, where the employing broker was the seller, the Department required the broker and salesperson to offer to refund the commissions and other compensation to the seller or property owner. In one Consent Order, this amounted to \$36,442.93. In another, commissions totaled \$33,301.54. In all nine cases, both the broker and the salesperson were also assessed a civil (monetary) penalty.

All the employing brokers said failure to ensure that they, their employee or corporation were currently licensed was due to "negligence" or "oversight." These were not novice brokers; all were seasoned licensees who had been licensed for years.

Although the Department is not required by law to do so, it mails a renewal application to the employing broker about 90 days before license expiration. You may return the application with the required fees and a statement attesting to the continuing education credits received immediately. There's no need to wait until the last minute, and early renewal does not shorten the term of your license. In

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The honeymoon is over

Enforcement begins on lead-based paint disclosure

The following is reprinted from the Arizona Realtor Digest, a publication of the Arizona Association of Realtors®, with permission.

A year ago, the Department of Housing and Urban Development and the Environmental Protection Agency finalized disclosure rules regarding the lead-based paint in homes built prior to 1978.

At that time they announced they would help educate housing providers regarding the new requirements for a year prior to enforcement. Many real estate agents are not currently following recommended procedures. The time is now here—strict enforcement began on September 6, 1997.

Steps for real estate licensees to follow:

NOTE: The lead-based paint disclosure requirements apply to all real estate agents involved in the transaction except for buyers' agents receiving compensation from the buyer only. The following recommended steps are provided to help licensees meet the law's obligations in a typical residential transaction.

1. When taking a listing, the listing agent should determine if the property is "target housing" (generally, built before January 1, 1978). This can generally be accomplished by asking the seller. If the seller doesn't know, the listing agent should consult property records.

2. If the property is not target housing, no further action with regard to lead-based paint disclosure is necessary. If the property is target housing, continue reading.

3. The lead-based paint disclosure requirements became effective for all target housing on December 6, 1996. All target housing will require steps 4 through 10 below.

4. If the property is target housing, the listing agent must advise the seller of certain obligations:

a. Disclose known lead-based paint or lead-based paint hazards;

b. Provide any existing records, test results, reports or other lead-based paint information related to the presence of lead-based paint or lead-based

paint hazards in the property, if any;

c. Provide the buyer with the pamphlet, "Protect Your Family From Lead in Your Home" (EPA-approved lead-based paint hazard information pamphlet) [See note at the end of this article. Ed.];

d. Unless waived or reduced, provide the buyer with a 10-day opportunity to conduct a risk assessment or inspection for the presence of lead-based paint or lead-based paint hazards; and

e. Include disclosure and acknowledgment language as part of the purchase contract or addenda. (Note: The law does not require that all interested buyers must be informed, only the actual buyer.)

5. The listing agent should obtain from the seller any records, test results, reports or other lead-based paint information related to the presence of the paint or hazards in order to be ready to provide copies to the buyer.

6. The listing agent should have the seller initial and sign, and the listing agent should initial and sign, the disclosure form.

7. The listing agent should disclose to potential cooperating agents that the listed property is target housing, probably through the MLS or by providing a copy of the SPDS in the house.

8. The cooperating agent (the agent working with the buyer who expects to be paid by the listing agent or the seller—whether it be buyer's agent, subagent, "facilitator," or whatever), also has an obligation to ensure the seller's compliance. If the disclosure form has not been provided by the listing agent, the cooperating agent should provide the disclosure form to the listing agent for the seller to sign, or directly to the seller if no listing agent is involved.

9. When the buyer is ready to make an offer on target housing, the cooperating agent should provide the buyer with a copy of the disclosure form signed by the seller and the listing agent togeth-

er with related test results or records, if any, and a copy of "Protect Your Family From Lead in Your Home." Ideally, these documents will be obtained by the cooperating agent from the listing agent before the offer is signed by the buyer, but it must happen before the offer is accepted by the seller.

10. If a completed disclosure form, executed by the seller and with attachments, is not available at the time the offer is written, the cooperating agent writing the offer should check the box at line 256 of the AAR Residential Resale Purchase Contract (11/96) but "line out" the language acknowledging the buyer's receipt of the disclosure form and attachments. Then, the cooperating agent should write in, under "Additional Terms and Conditions" that the seller must deliver the disclosure form and attachments to the buyer within the agreed-upon inspection period. For example:

Seller shall complete and deliver to buyer or buyer's agent, within the lesser of five (5) calendar days after acceptance of the contract or within the agreed-upon inspection period, the Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards and any reports, records, pamphlets, and/or other materials referenced therein, including the pamphlet, "Protect Your Family From Lead in Your Home."

11. The disclosure form must be initialed and signed by the buyer and the cooperating agent which should be done after the seller and the listing agent have initialed and signed the form. (By initialing paragraph G of the AAR Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards form, signing the Certification, and complying with the other terms of this AAR form, both the listing and cooperating agents will have met their obligations under the law.)

Not supplying the required disclosure on target housing may subject sellers and real estate agents to criminal and civil penalties and may allow the buyer to void the contract.

Note: The pamphlet is in the pub-

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Jerry Holt

News From The Commissioner

TO WHAT STANDARD?

I am continually amazed at the lack of understanding many licensees exhibit of the statutes and Commissioner's Rules. Violations of the real estate regulatory code are often intentional, but mostly, I believe violations result from pure ignorance of the law.

Real estate licensees are required to know the law, to understand and apply it. That's why every licensee is required to "have available" a current copy of the Department's statutes, rules and annotations pertaining to real estate laws (the Arizona Real Estate Law Book). How can a licensee give competent legal advice or assistance to clients if the licensee is ignorant of the law? Remember, by virtue of Article 26 of the Arizona Constitution, real estate licensees have been given authority to act as lawyers, literally licensed to give legal advice in relation to transactions in which they act as licensees.

My admonishment? Know the code! There are great continuing education courses available. Don't limit yourself to the minimum 24 hours every two years. And don't wait until the 24th month to take your continuing education. Stay current by reading the Real Estate Bulletin and the many fine school and association periodicals and trade journals.

If you misinterpret or misapply the real estate code and a complaint is filed with the Department, your license is at risk; in addition, you could easily be dragged into costly civil litigation. You have a fiduciary duty to protect and promote your clients' interests, and to deal fairly with all other parties to a transaction. If you don't know the law, you can't do either effectively.

TIME TO ORDER YOUR 1997 LAW BOOK

The 1997 edition of the Arizona Real Estate Law Book will be available in December. This edition is completely new and contains all changes to statutes enacted by the 1997 Arizona Legislature, the Commissioner's Rules and other rules and statutes of importance to real estate licensees.

The book can be inserted in the special seven-ring burgundy binder sold for the

1995 and 1996 editions.

The cost is \$13 for the book, or \$20 for the book and binder, plus \$3 for shipping (for the book or book and binder). Send your order, with your check made payable to ADRE, to:

Law Book
ADRE
2910 N 44th St Ste 100
Phoenix AZ 85018

1997 RULES PACKAGE

A comprehensive revision of the Commissioner's Rules is in the works. The first draft of the rules package is available on our web site at www.adre.org where you may download it to your printer.

I strongly encourage you to read these proposed rules and make a written response during the public-comment period. Interested parties can respond as individuals or through an appropriate group. Your written comments may address the substance and scope of the proposed rules and should be directed to Cindy Wilkinson at the Department of Real Estate, 2910 N. 44th Street, Ste 100, Phoenix AZ 85018 by December 28, 1997.

After this public comment period, the Department will analyze the correspondence, determine if and how the proposed rule should be modified, and establish whether additional drafts need to be written or meetings held with industry to discuss the rule making.

When we establish a final draft, the proposed rules will be published in the Arizona Administrative Register and an additional comment period will be scheduled to coincide with the public hearing. The date will be published in the Administrative Register and notice will be posted on our website.

After adopting the rules, the Department will appear before the Governor's Regulatory Review Council to respond to any comments the Council may have regarding the rules and the economic impact statement. At that time, the Council may approve the adopted rules or return the rules to the Department.

We look forward to hearing from you and hope you will be involved in revamping

the Commissioner's rules.

1998 LEGISLATIVE PACKAGE

The Department has submitted its 1998 legislative package to the Legislative Council where it will be transformed into a bill and then submitted to the Governor's Office before being introduced in the Legislature. Most of the changes are "technical" changes which do not have significant effect on existing real estate statutes, but there are some exceptions.

The Department will post the package on our web site for public comment before it is actually submitted to the Legislature and, of course, copies will be supplied to the usual wide array of interested parties.

DISTANCE LEARNING

We have formed a committee whose members represent real estate schools and the Arizona Association of Realtors® to explore the various aspects of "distance learning" as used by other states' real estate departments to augment the continuing education experience. Under study are various vehicles now in use or proposed by various vendors of educational materials:

- Computer-aided classroom settings
- CD-based programs which can be studied at home
- The Internet
- Satellite TV and videos

We expect the committee will announce its recommendations early in 1998. You'll read the results here and on our web site.

THINGS USED TO BE SO SIMPLE

School officials in Tucson find themselves pitted against environmentalists and the U.S. Fish and Wildlife Service. Between the two camps perches the cactus ferruginous pygmy owl, affectionately called the CFPO.

Seems that Tucson's Amphitheater school district, which serves Tucson's fastest-growing suburbs, purchased property years ago for future expansion. Now, environmentalists have sued the federal government calling for nearly 300 miles of desert washes surrounding Phoenix and Tucson to be protected as "critical" owl habitat. And guess where the school district's property is?

The Fish and Wildlife people are working their unique brand of voodoo, too. They refuse to disclose where they think the owl's habitat is because they don't want people to "locate and disturb" individual birds. Buy the property, propose to build something on it, then we'll tell you whether we think the owls might live there, or even think about living there, and block you from building" F&W has told the Southern Arizona Home Builders Association. Ah, c'est la vie.

May your holiday season be the best ever.



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1997-1998 Schedule of Broker Audit Clinics

A.R.S. § 32-2136 requires all newly licensed real estate brokers to attend a Broker Audit Clinic presented by the Department within 90 days of issuance of their original broker's license. *Effective July 21, 1997, all designated real estate brokers must also attend a Broker Audit Clinic within 90 days after becoming a designated broker unless the broker has attended an audit clinic during the broker's current licensing period.* All designated brokers shall attend a broker audit clinic once during every four-year period after their initial attendance.

Seating is limited and reservations are required. To make a reservation for a Phoenix clinic, call the Department's Customer Services Division at (602) 468-1414, extension 100. In Tucson, call (520) 628-6940. Those who fail to make reservations will be turned away if seating is not available. Brokers who attend will receive three hours of continuing education credit in the category of Commissioner's Rules.

The following is the schedule of Clinics to be offered in Phoenix and Tucson during the remainder of 1997 and in 1998. Additional clinics may be scheduled from time to time at other locations in Phoenix and in rural areas.

PHOENIX

Industrial Commission Auditorium
800 W. Washington

Noon - 3 p.m.

October 24
November 21
December 19
January 16
February 20
March 20
April 17
May 15
June 19
July 17
August 21
September 18
October 23
November 20
December 18

TUCSON

State Office Building
400 W. Congress
Room 158

8:30 a.m. - 11:30 a.m.

October 23
November 20
December 18
January 15
February 19
March 19
April 16
May 7
June 11
July 16
August 20
September 17
October 22
November 19
December 17

The mission of the Arizona
Department of Real Estate is to
safeguard and promote the public
interest through timely and capable
assistance, fair and balanced
regulation, and sound and
effective education.

ADMINISTRATIVE ACTIONS

REVOCATIONS

H-1896

**Susan Rae Thatcher, dba Thatcher's Desert West Realty
Sierra Vista**

DATE OF ORDER: September 15, 1997

FINDINGS OF FACT: Thatcher was issued an original real estate broker's license on March 14, 1979. That license will expire August 31, 1998. Thatcher was self-employed and doing business as Thatcher's Desert West Realty.

In an Order Summarily Suspending Real Estate Broker's License and Notice of Right to Request Hearing issued July 25, 1997, to the Respondents named above, the Department alleged that Department auditors were unable to complete an audit of Desert West records and its trust account because of poor accounting practices, that there were growing shortages in the trust account, in excess of \$8,700, and that Thatcher failed to operate her brokerage in compliance with Arizona Revised Statutes.

Respondent did not request an administrative hearing within the time required.

DISPOSITION: Susan Thatcher's real estate broker's license revoked.

CONSENT ORDERS

H-1523

**In the matter of U.S. General Homes, Inc., a Nevada corporation, James E. Robertson, President; U.S. General Marketing, Inc., an Arizona corporation; and William Robertson, Director; and in the matter of the real estate broker's license of U.S. General marketing, Inc., and Arizona corporation.
Kingman**

DATE OF ORDER: September 12, 1997

On January 18, 1995, the Commissioner entered an Order assessing a \$10,000 civil penalty each against Robertson, U.S. General Homes (Homes) and U.S. General Marketing, Inc.

On March 6, 1995, the Commissioner ordered that any civil penalties assessed against Robertson be stricken from the Order and the portions of the Administrative Law Judge's Findings of fact and Conclusions of Law referring to Robertson only, be stricken from the Order.

The Commissioner further ordered that Robertson be granted a new hearing limited to a determination of whether grounds existed to impose a civil penalty against Robertson pursuant to A.R.S. § 32-2185.09 as a result of his involvement in the offer and/or sale of lots in Crystal

Springs Estates II Tract 3023 (Crystal Springs II), Fairway Meadows, Tract 1925 (Fairway Meadows) and Greater Kingman Addition Unit 2 (Greater Kingman) subdivisions.

FINDINGS OF FACT: On March 19, 1990, Homes/Robertson entered into a land purchase agreement with Sun Capital, Inc., to purchase approximately 53 lots in Crystal Springs II which constitutes a subdivision within the meaning of A.R.S. § 32-2101, et seq.

From September 9, 1990 through January 31, 1991, Homes/Robertson offered for sale and sold lots in Crystal Springs II without applying for and obtaining a public report, as required by A.R.S. §§ 32-2181(A), 32-2183(A) and formerly (D), now (E) and without qualifying for the exemption provided by A.R.S. § 32-2181.02(B)(3).

On March 11, 1991, Homes/Robertson filed an Affidavit of Notice of Intention and Qualification to Sell or Lease on lots in Crystal Springs II, pursuant to A.R.S. § 32-2181.02(B)(3). In the affidavit, Homes stated it had a recorded agreement for sale to evidence an interest in the property and that no material changes had taken place since the issuance of the previous Public Report. The Department later found this information to be inaccurate and informed Homes/Robertson.

Between June 5, 1991 and May 2, 1992, Homes/Robertson offered for sale and sold lots in Crystal Springs II without a valid public report in violation of A.R.S. §§ 32-2181(A), 32-2181.02(B)(3) and 32-2183(A) and formerly (D), now (E).

Contracts used at Crystal Springs II did not satisfy the earnest deposit requirements pursuant to A.A.C. R4-28-803.

On September 19, 1990, Homes/Robertson were issued a public report for Fairway Meadows. On August 8, 1991, Homes/Robertson were issued a public report for Greater Kingman. On February 20, 1992, the Arizona Department of Revenue filed a tax lien against Homes because of a miscalculation of sales tax by Homes/Robertson. Homes/Robertson believed that the tax lien issue was not material and therefore failed to notify the Department and amend its public reports for Fairway Meadows and Greater Kingman as required pursuant to A.R.S. § 32-2184 and A.A.C. R4-28-1203.

Contracts used by Homes/Robertson for sales in Greater Kingman did not contain the required public report and rescission rights disclosures or the required disclosures on the contracts,

pursuant to A.R.S. §§ 32-2185.01 and 32-2185.06 and A.A.C. R4-28-803 and R4-28-804 as represented in their application for a public report.

Homes/Robertson sold approximately four lots in Greater Kingman without obtaining a public report pursuant to A.R.S. § 32-2183(A) and formerly (D), now (E). Contracts used in the sale of lots in the Greater Kingman subdivision did not disclose the disposition of the earnest monies and did not have buyers' initials of approval as required pursuant to A.A.C. R4-28-804.

On May 5, 1992, Jim Burchard submitted a complaint to the Department in which he alleged that he did not receive a copy of a public report prior to signing the purchase contract for a lot in Crystal Springs II, and did not promptly receive his earnest deposit after cancellation of the purchase contract.

On May 15, 1992, Anthony Arno submitted a complaint to the Department which contained the same allegations.

On May 16, 1992, Donald Hellman submitted a complaint to the Department which contained the same allegations.

Homes/Robertson agreed to cease selling lots in Crystal Springs II, Fairway Meadows and Greater Kingman on July 16, 1992, when notified of violations related in these filings.

VIOLATIONS: Robertson's activities as described above constitute violations of A.R.S. §§ 32-2181, 32-2181.02(B)(3), 32-2183(A) and formerly (D), now (E), 32-2184, 32-2185.01, 32-2185.06 and A.A.C. R4-28-803, R4-28-804 and R4-28-1203.

DISPOSITION: Robertson is assessed a civil penalty in the amount of \$3,000 and shall take three hours of real estate continuing education, in addition to hours required for license renewal, in subject areas specified by the Department.

H-1906

**John G. Shattuck, dba Realpros, Eugene R. Wolyniec
Tucson**

DATE OF ORDER: September 12, 1997

FINDINGS OF FACT: Wolyniec, who was employed as a salesperson by Shattuck, was issued an original real estate salesperson's license in July 1993. The license expired July 31, 1997.

Shattuck, a self-employed real estate broker doing business as Realpros, was issued an original real estate broker's license in August 1995. Shattuck was responsible

to ensure that salespersons and associate brokers he employed were currently and actively licensed.

Between August 1 and August 21, 1997, Wolyniec provided real estate services while his license was expired. Upon learning his license had expired, he ceased real estate activities and submitted a renewal application to the Department on August 28, 1997.

In his application he disclosed he had received \$1,950 in commissions and anticipated receipt of another \$5,334 on transactions which had not closed escrow.

Shattuck stated that although he has office procedures to detect upcoming license expiration dates, he inadvertently filed Wolyniec's license under the wrong year. He states he has modified procedures to avoid a recurrence of this situation. VIOLATIONS: Wolyniec conducted activities for which a current real estate license is required, in violation of A.R.S. § 32-2154(A). He received compensation while his license was expired, in violation of A.R.S. § 32-2153(A)(10). He failed to pay the license renewal fee promptly and before the time specified in violation of A.R.S. § 32-2153(A)(14).

Shattuck paid compensation to a person whose license had expired in violation of A.R.S. §§ 32-2153(A)(6) and 32-2155(A).

Wolyniec and Shattuck disregarded or violated provisions of Arizona Revised Statutes, Title 32, Chapter 20, within the meaning of A.R.S. § 32-2153(A)(3). DISPOSITION: Wolyniec's license renewal is granted upon entry of this order.

Wolyniec and Shattuck shall each take six hours of real estate continuing education, in addition to hours required for license renewal, in subject areas specified by the Department.

Respondents shall offer to refund or not accept commissions earned by Wolyniec while his license was expired.

H-1907

Paul Harry Weisman and Weisman Investments, Inc., DBA Dart Realty & Investments Company, and Barbara V. Hallin

Scottsdale

DATE OF ORDER: September 25, 1997

FINDINGS OF FACT: Weisman was issued an original real estate broker's license in March 1983. Prior to July 11, 1995, Weisman was a self-employed broker doing business as Dart Realty & Investment.

On July 11, 1995, Weisman became the designated broker for Weisman Investments, Inc., dba Dart Realty & Investment Co. Weisman Investments was issued a real estate broker's license on

July 11, 1995.

Hallin was issued an original real estate salesperson's license on May 29, 1985. Hallin was actively employed by Weisman from May 25, 1995 to July 11, 1995, at which time Hallin's license was severed from Weisman's employ. Hallin's license was on inactive status from July 11, 1995 to May 31, 1997 at which time it expired. She submitted an application for license renewal on June 17, 1997.

On July 11, 1995, as part of changing his license to designated broker for Weisman Investments, Weisman returned the licenses of his licensed employees to the Department together with a change form severing the employment of each. Weisman and Weisman Investments neglected to rehire Hallin.

During the period in which Hallin's license was expired, she was involved in two real estate transactions, the sale of her personal residence and the purchase of a new residence. She was paid a commission in connection with the purchase which was reflected as a reduction in the purchase price of the home.

VIOLATIONS: Weisman Investments, by and through Weisman, employed and paid compensation to a salesperson who was not legally in its employ, in violation of A.R.S. §§ 32-2153(A)(10) and 32-2155(A).

Weisman demonstrated negligence in performing an act for which a license is required, in violation of A.R.S. § 32-2153(A)(22). He demonstrated negligence in performing an act for which a license is required in violation of A.R.S. § 32-2153(A)(22). He disregarded or violated provisions of Arizona Revised Statutes, Title 32, Chapter 20, in violation of A.R.S. § 32-2153(A)(3).

DISPOSITION: Weisman and Weisman Investments, collectively, shall pay a civil penalty in the amount of \$2,000. Weisman shall take 12 hours of continuing education, in addition to hours required for license renewal, in subject areas specified by the Department.

Weisman and Weisman Investments shall not employ any real estate licensees without first developing and implementing an in-house process to monitor the license status of each broker and salesperson employed.

H-1908

John Calhoun and John Calhoun & Company, Inc., dba Spectrum Realty Group, and Sook K. Cho

Scottsdale

DATE OF ORDER: September 29, 1997

FINDING OF FACT: Calhoun was issued an original real estate broker's license in January 1988. Prior to March 28, 1996,

Calhoun was a self-employed broker doing business as John Calhoun & Company.

Sook K. Cho was issued an original real estate salesperson's license in June 1995. She was employed by Calhoun from July 19, 1995 until March 28, 1996 when Calhoun changed his licensed from self-employed broker to designated broker for John Calhoun & Company, Inc., dba Spectrum Realty Group. As part of changing his license to designated broker for Spectrum, Calhoun returned the licenses of his licensed employees to the Department together with a change form severing the employment of each. Calhoun and Spectrum neglected to rehire Cho, whose license was inactive from March 28, 1996 to June 30, 1997 when it expired.

During the inactive period, Cho was involved in two transactions for the sale of time-share intervals and earned commissions of \$2,550.

VIOLATIONS: Spectrum, by and through Calhoun, employed and paid compensation to Cho, in violation of A.R.S. §§ 32-2153(A)(10) and 32-2155(A). Calhoun demonstrated negligence in performing an act for which a license is required, in violation of A.R.S. § 32-2153(A)(22). Calhoun, as designated broker for Spectrum, did not notify the Commissioner of Cho's employment as required by A.A.C. R4-28-302(B). Accordingly, he disregarded or violated provisions of Arizona Revised Statutes, Title 32, Chapter 20, within the meaning of A.R.S. § 32-2153(A)(3).

DISPOSITION: Calhoun and Spectrum, collectively, shall pay a civil penalty of \$1,500. Calhoun shall take 12 hours of continuing education, in addition to hours required for license renewal, in subject areas specified by the Department.

Calhoun and Spectrum shall develop and implement an in-house process to monitor the license status of each broker and salesperson employed.

H-1910

Discount Club & Realty Services, L.L.C., and Judy Kirschbaum, and Gregory Comstock

Phoenix

DATE OF ORDER: SEPTEMBER 30, 1997

FINDINGS OF FACT: Comstock was issued an original real estate salesperson's license in February, 1987. The license expired August 31, 1997 when he was employed as a salesperson by Discount Club. Comstock submitted an untimely renewal application on September 15, 1997.

Upon the sudden death of Frank Rizzo, the designated broker for Discount Club, Kirchbaum was appointed as temporary designated broker on August 5, 1997.

At the time he submitted his renewal

application, Comstock disclosed he anticipates receipt of a commission of \$2,670 on one transaction which had not closed escrow at the time of this order.

Kirschbaum stated that she overlooked the expiration of Comstock's license.

VIOLATIONS: Comstock received or anticipated receiving compensation for acts performed while his license was expired, in violation of A.R.S. §§ 32-2153(A)(10) and 32-2155(A). He failed to pay the required renewal fee promptly and before the time specified in violation of A.R.S. § 32-2153(A)(14).

Kirschbaum and Discount Club employed and paid, or planned to pay, compensation to a salesperson whose license had expired, in violation of A.R.S. §§ 32-2153(A)(6) and 32-2155(A).

Comstock and Kirschbaum demonstrated negligence in performing an act for which a license is required, in violation of A.R.S. § 32-2153(A)(22), and disregarded or violated provisions of Arizona Revised Statutes, Title 32, Chapter 20, within the meaning of A.R.S. § 32-2153(A)(3).

DISPOSITION: Comstock's license renewal is granted upon entry of this Consent Order. He shall take six hours of continuing education, in addition to hours required for license renewal, in subject areas designated by the Department.

Kirschbaum and Discount Club shall develop and implement in-house procedures for tracking license expiration dates. A copy of the written procedures shall be submitted to the Department within 30 days of the entry of this Order.

Respondents shall offer to refund or not accept the commission and/or compensation earned by Comstock while his license was expired.

H-1904

Mitch E. Pearson and Mitch E. Pearson, Ltd, dba Daybreak Realty Peoria

DATE OF ORDER: October 3, 1997

FINDINGS OF FACT: Pearson was issued an original real estate broker's license in May 1992. From that time until August 23, 1996, he was employed as an associate broker with West USA Realty, Inc., a corporation licensed as a real estate broker. His employment with West USA was severed on August 23, 1996.

On that same date, a corporate broker's license was issued to Mitch E. Pearson, Ltd., dba Daybreak Realty, and Pearson was licensed as designated broker for Daybreak.

The real estate broker's licenses of Pearson and Daybreak are presently inactive.

On July 23, 1996, Vincent Oliver executed an exclusive listing agreement with West USA through Pearson for the sale of property owned by Oliver. On August 26, 1996, Pearson signed Oliver's name on an Authorization to Withdraw and Relist Agreement without Oliver's authorization. The agreement purported to transfer the listing from West USA to Daybreak.

Pearson attests he signed the agreement only after attempting unsuccessfully to contact Oliver, and because he believed it was in the best interests of Oliver to transfer the listing to Daybreak immediately so that the marketing of the property would not be adversely affected.

VIOLATIONS: Person's activities reflect a failure to protect and promote the interests of his client, within the meaning of A.A.C. R4-28-1101(A). His conduct constitutes dishonest dealings within the meaning of A.R.S. §§ 32-2153(B)(5) and (B)(10), formerly (A)(25). His conduct tends to show that he is not a person of honesty or truthfulness, within the meaning of A.R.S. § 32-2153(B)(7).

Pearson and Daybreak disregarded or violated the provisions of Arizona Revised Statutes, Title 32, Chapter 20, within the meaning of A.R.S. § 32-2153(A)(3).

DISPOSITION: Pearson and Daybreak, collectively shall pay a civil penalty in the amount of \$2,500. The real estate brokers' licenses of Pearson and Daybreak are suspended for a period of not less than three months, and shall remain in effect until Pearson and Daybreak have paid the civil penalty in full.

H-1915

Nick Petra and Priority One, Ltd., dba Arizona Real Link - Priority One Scottsdale

DATE OF ORDER: October 9, 1997

FINDINGS OF FACT: Petra was issued an original real estate broker's license in November 1976. That license expired May 31, 1997. At the time, he was designated broker of Priority One, a corporation licensed as a real estate broker. That license also expired on May 31, 1997.

On September 24, 1997, Petra, on his behalf and on behalf of Priority One, submitted applications for renewal of their licenses, disclosing that while the licenses were expired, he and Priority One had received \$17,666.32 in commissions and anticipated receipt of an additional \$15,635.22 on transactions which had not closed escrow.

Petra attests that he believed he had renewed the licenses in April 1997 at the time the corporation changed its name to reflect the Arizona Real Link franchise.

VIOLATIONS: Petra and Priority One con-

ducted activities for which a current real estate license is required while not properly licensed to do so, in violation of A.R.S. § 32-2130(B). Priority One received compensation while its license was expired, in violation of A.R.S. §§ 32-2153(A)(10) and 32-2155(A).

Petra failed to pay the license renewal fee to the Department at the time specified in violation of A.R.S. § 32-2153(A)(14). He and Priority One demonstrated negligence in performing any act for which a license is required by continuing to work after their licenses expired, in violation of A.R.S. § 32-2153(A)(22). They disregarded or violated provisions of Arizona Revised Statutes, Title 32, Chapter 20, within the meaning of A.R.S. § 32-2153(A)(3).

DISPOSITION: Petra and Prior, jointly and severally, shall pay a civil penalty in the amount of \$500. Petra shall take six hours of continuing education, in addition to hours required for license renewal, in subject areas specified by the Department.

Petra and Priority One shall offer to refund or not accept commissions which they earned after their licenses expired.

H-1894

Jeffery Chesleigh, dba Axiom Real Estate Group Sierra Vista

DATE OF ORDER: October 15, 1997

FINDINGS OF FACT: The Department issued Chesleigh a real estate broker's license in January 1992. At all times material to this matter, Chesleigh was a self-employed broker, doing business as Axiom Real Estate Group. Subsequently, Chesleigh and family members were members of a limited liability company licensed as a real estate broker, Axiom Realty Group, L.L.C.

On June 18, 1996, pursuant to a complaint the Sierra Vista Chamber of Commerce had received from an individual, Department Investigator Darryl Churchill and Auditor Linda Gottfried attempted to conduct a review of Axiom's property management records. The complaint alleged that three of the last four checks Axiom had given her had been returned for insufficient funds. Chesleigh, as designated broker of Axiom, represented to Churchill and Gottfried that he only had one trust account and that he could produce only a few bank statements. Chesleigh claimed that all of Axiom's property management records were in the possession of his accountant who was on vacation and could not be reached.

During the June 18, 1996 visit by Churchill and Gottfried, Chesleigh produced three bank statements for his First Interstate Bank property management trust

account. These statements revealed no return items and ending balances for March 31, 1996 of \$117,365.44; April 30, 1996 of \$119,498.46; and May 31, 1996 of \$101,025.34. Axiom's trust account is now maintained at the Stockmen's Bank in Sierra Vista.

A follow-up audit was scheduled for July 10, 1996 because Chesleigh stated he was unable to produce any of his property management records at that time.

Subsequent to his meeting with Churchill and Gottfried, Chesleigh retained an attorney to represent him because he was aware that there was a large shortage in his trust account which the Department would discover during the follow-up audit. Chesleigh employed an accounting firm, Hammel & Company, P.C., to perform an independent audit of Axiom's trust account.

The independent audit findings conflicted with the documentation Chesleigh provided the Department in that the three bank statements provided to Churchill and Gottfried showed Axiom's trust account to hold more than \$100,000 when in fact there was a shortage of more than \$113,000.

On September 4, 1996, Chesleigh informed the Department that he began using money from the trust account to offset heavy financial operational losses caused by a downturn in the real estate market. He further informed the Department that the three computer-generated bank statements he provided to Churchill and Gottfried had been altered so that his office staff would not become aware of any problems with the financial condition of this business, and so that they would be able to balance the books.

On October 28, 1996, Axiom Realty Group, L.L.C. applied for and was issued a limited liability company broker's license. On that same date, Chesleigh changed his license status from self-employed broker to associate broker for the company. Shirley York, a licensed real estate broker, is the company's manager and has been its designated broker since licensure. Chesleigh and members of his family were the only members of Axiom. Axiom's license will expire on October 31, 1998. As part of its new business management arrangements, the limited liability company has assumed full responsibility for payment of Axiom's outstanding trust account debt.

While acting as an associate broker for Axiom, Chesleigh has made a diligent effort to reduce the shortage in the trust account by the sale of personal real estate properties. He represented to the Department that as a result of his efforts he had

reduced the deficiency from \$113,655.18 to approximately \$41,700 as of June 30, 1997.

On March 21, 1997, Chesleigh voluntarily surrendered his broker's license to the Department and ceased all real estate sales and property management activity except as to his personal real estate properties.

Effective June 15, 1997, Chesleigh is no longer the owner of any interest whatsoever in the real estate and property management business operating as Axiom Realty in Sierra Vista and/or Pinetop, Arizona (Axiom Realty Group, L.L.C. and/or Axiom Realty Group Management, L.L.C. and/or Axiom Realty). All interest in the real estate business has been sold and conveyed to a third party prior to execution of this Consent Order. The purchaser of the business is a non-family member who has agreed to be personally liable for repayment of the deficiency in the Axiom trust account, along with Chesleigh.

The purchaser of Axiom and Chesleigh have, prior to execution of this Consent Order, submitted a signed Agreement of Guaranty to be personally liable for the full deficiency in the trust account of Axiom which they believed to be approximately \$41,700, although it has recently been discovered by the Department to be approximately \$58,171.95.

With the execution of this Consent Order, Chesleigh has executed a recordable Assignment of Net Proceeds which he assigned to Axiom Realty Group, L.L.C., to be used for the sole purpose of replenishing the deficiency in the Axiom trust account. Upon the sale of any real properties which belong to Chesleigh personally, Chesleigh shall immediately report to the Department the assignment of the proceeds to Axiom and disclose evidence of the method of payment, the date of payment, and the amount thereof. He has also provided evidence to the Department that there is currently pending a sale of a portion of one parcel of real property he owns that may generate approximately \$25,000 in proceeds that will be used to reduce the trust account deficiency.

The new owner of Axiom has signed a Promissory note to the Department agreeing to cause the deficient trust amount to be reduced at the rate of not less than \$5,000 per month, each month, the first payment due during the month of July, not later than the 31st day of July, and with a minimum payment of at least \$5,000 by the end of each succeeding month thereafter until the full amount of the deficiency has been repaid.

The new owners have acknowledged to the Department that failure to repay the obligation may be grounds for termina-

tion of the right of Axiom Realty Group, L.L.C. to continue as a licensed broker. The new owners have also acknowledged to the Department that they are aware of the deficiency in the Axiom trust account and are aware that all licensed agents employed by Axiom have been advised of the previous conduct of Chesleigh as relates to the trust account and the deficiency he created in the account. The new owners have assumed the risks attendant thereto, it being their intent to repay the trust account deficiency as quickly as possible and to maintain the operation of the business for the good of the business and the community.

On August 13, 1997, the Department conducted a follow-up audit of the Axiom trust accounts. The shortage amount on that date was approximately \$58,471.95. VIOLATIONS: Chesleigh used trust account money for a purpose other than its intended use in violation of A.R.S. § 32-2151(B)(1). He commingled trust account monies with his own money in violation of A.R.S. § 32-2151(B)(2). He pursued a course of misrepresentation in his property management operation in violation of A.R.S. § 32-2153(A)(1).

As a result of the conduct and actions referenced above, he has disregarded or violated provisions of Arizona Revised Statutes, Title 32, Chapter 20, and the Commissioner's Rules, in violation of A.R.S. § 32-2153(A)(3). He commingled the funds of clients with his own money and converted monies for his own use in violation of A.R.S. § 32-2153(A)(16). He failed to produce bank statements or property management records upon demand in violation of A.R.S. § 32-2153(A)(17).

As demonstrated by the facts referenced above, he negligently conducted the business activities of Axiom in violation of A.R.S. § 32-2153(A)(22). He made substantial misrepresentations in violation of A.R.S. § 32-2153(B)(3). His conduct and actions show he is not a person of honesty, truthfulness and good character within the meaning of A.R.S. § 32-2153(B)(7).

He failed to produce within a reasonable amount of time property management records for a routine audit upon request by a Department representative in violation of A.R.S. § 32-2175(G). As a result of his conduct and actions he violated his fiduciary duty to his clients and failed to deal fairly with all parties within the meaning of A.A.C. R4-28-1101(A).

DISPOSITION: Chesleigh's real estate broker's license is revoked. He shall divest himself and his family of any ownership and/or control in Axiom Realty Group, L.L.C. effective June 15, 1997. He shall have no access to or be a signatory on

any brokerage or property management trust account.

Upon the sale or transfer of any piece of real property currently owned by Chesleigh, he shall supply the Department with an Affidavit outlining the date of the sale of the property, the net amount received after paying all obligations pertaining to said property, and the amount of money transferred to Axiom Realty Group, L.L.C. to be used to reduce the deficiency in the trust account. The designated broker shall notify the Department upon receipt of each payment and the specific amount deposited in the trust account.

In accord with the Agreement of Purchase and Promissory Note executed by the new owner for the benefit of the Department of Real Estate, Axiom shall make a minimum payment in July of not less than \$5,000 by no later than July 31, 1997, and at the end of each successive month thereafter, until the full amount of the trust deficiency has been paid.

Chesleigh shall not reapply for an Arizona real estate license for at least five years from the date of entry of this Consent Order.

H-1918

William G. Jilbert and CMLB, Ltd., dba Coldwell Banker-Success Realty, and Melissa M. Williams
Scottsdale

DATE OF ORDER: October 21, 1997

FINDINGS OF FACT: Williams was issued an original real estate salesperson's license in August 1993. That license expired August 31, 1997 while she was employed as a salesperson by Success, a corporation licensed as a real estate broker.

Jilbert was appointed designated broker for Success on December 21, 1994. As designated broker for Success, he was responsible to ensure that salespersons and associate brokers employed by Success were currently and actively licensed to the corporation.

Williams submitted a renewal application on September 15, 1997. Between September 1 and September 12, 1997 she provided real estate services for which a license is required without being properly licensed to do so, and disclosed commissions, not paid at the time of this order, of \$5,964.55..

Linda Thoms Berg, a licensed associate broker, was designated by Jilbert as branch manager at the Success office where Williams worked. She stated on behalf on Success that the office inadvertently overlooked the expiration of Williams' license due to Williams' out-of-town travel for family emergencies.

This is the third instance within the

past two years in which Jilbert and Success employed and paid an unlicensed salesperson or broker whose license had expired.

VIOLATIONS: Williams engaged in activities for which a license is required while her license was expired in violation of A.R.S. § 32-2153(B)(6). She received, or expected to receive, compensation while her license was expired, in violation of A.R.S. §§ 32-2153(A)(10) and 32-2155(A). She failed to pay the renewal fee promptly and before the time specified in violation of A.R.S. § 32-2153(A)(14).

Success, by and through Jilbert, employed and paid compensation to a salesperson whose license had expired, in violation of A.R.S. §§ 32-2153(A)(6) and (A)(10) and 32-2155(A).

Jilbert, as designated broker for Success, failed to exercise reasonable supervision over the activities of Williams in violation of A.R.S. § 32-2153(A)(21).

Williams and Jilbert demonstrated negligence in performing an act for which a license is required, in violation of A.R.S. § 32-2153(A)(22). They disregarded or violated provisions of Arizona Revised Statutes, Title 32, Chapter 20, within the meaning of A.R.S. § 32-2153(A)(3). Jilbert and Success, by and through Williams, engaged in activities for which a real estate license is required, in violation of Arizona Revised Statutes, Title 32, Chapter 20, within the meaning of A.R.S. § 32-2122(B). DISPOSITION: Jilbert and Success, collectively, shall pay a civil penalty in the amount of \$1,000.

Williams shall take six hours, and Jilbert shall take 12 hours of continuing education, in addition to hours required for license renewal, in subject areas specified by the Department.

Success, Jilbert and Williams shall offer to refund commissions and/or compensation earned by or through Williams while her license was expired.

Jilbert, as designated broker for Success, shall develop, document and implement in-house procedures for each Success office to use to track license expiration dates and prevent a recurrence of the violations cited herein. A copy of the procedures shall be submitted to the Department.

H-1919

Reed Porter, dba Reed Porter Realty, and Andrew C. Schmidt
Mesa

DATE OF ORDER: November 5, 1997

FINDINGS OF FACT: Porter is a self-employed broker licensed to do business as Reed Porter Realty. Schmidt, who was issued an original real estate salesperson's

license in July 1993, was employed as a salesperson by Porter. Schmidt's license expired July 31, 1997 and he submitted a late renewal application to the Department on September 29, 1997.

Porter conducted business as a real estate broker under the name of Key Construction, Inc., dba Trend Homes. Trend is not licensed by the Department to conduct business as a real estate broker.

Schmidt disclosed he had received \$12,834.61 in commissions in connection with 17 transactions, only one of which had closed escrow, during the period in which his license had expired. He anticipates receipt of commissions of \$23,369.11 on an additional 36 pending transactions which occurred during the unlicensed period. Schmidt and Porter failed to disclose in purchase contracts in 53 transactions that real estate commissions would be paid to Porter or Schmidt.

Porter states that his failure to supervise Schmidt's timely renewal was due in part to oversight and neglect.

VIOLATIONS: Schmidt engaged in business requiring a real estate license while not licensed to do so in violation of A.R.S. § 32-2122(B). He accepted employment as a real estate salesperson after his license expired and while his rights to act as such were terminated pursuant to A.R.S. § 32-2130(B), in violation of A.R.S. § 32-2155(A). He accepted compensation as a salesperson for the performance of acts specified in this chapter from a person other than the licensed broker to whom he was licensed, in violation of A.R.S. § 32-2153(A)(7). He received compensation while his license was expired, in violation of A.R.S. §§ 32-2153(A)(10) and 32-2155(A). He failed to pay the Commissioner the biennial renewal fee promptly and before the time specified, in violation of A.R.S. § 32-2153(A)(14).

Porter conducted business as a real estate broker under a name other than that under which he was licensed, in violation of A.A.C. R4-28-1001(A). He employed and paid compensation to a salesperson whose license had expired in violation of A.R.S. §§ 32-2153(A)(6), 32-2153(A)(10) and 32-2155(A).

He failed to exercise reasonable supervision over the activities of Schmidt, a licensee under his employ, in violation of A.R.S. § 32-2153(A)(21). He demonstrated negligence in performing an act for which a license is required, in violation of A.R.S. § 32-2153(A)(22).

Schmidt and Porter disregarded or violated the provisions of Arizona Revised Statutes, Title 32, Chapter 20, within the meaning of A.R.S. § 32-2153(A)(3).

DISPOSITION: Schmidt's renewal is grant-

ed and he may return to active status upon submission of applicable forms and fees. He shall pay a civil penalty in the amount of \$1,000.

Porter shall pay a civil penalty in the amount of \$1,500.

Schmidt shall take six hours, and Porter shall take 12 hours of approved real estate continuing education as specified by the Department in addition to hours required for license renewal.

Porter shall cease and desist from doing business as a real estate broker under the name of Trend Homes or Key Construction Inc., dba Trend Homes, until such time as he has obtained the appropriate broker's licenses as required by A.R.S. § 32-2125. He shall develop and implement in-house procedures for tracking license expiration dates. A copy of the procedure shall be submitted to the Department's Compliance Officer.

Schmidt shall ensure that a correct and current active-status license is issued to him reflecting the name of his employing broker, and shall accept compensation only from the broker to whom he is licensed.

{Note: The Department did not require Porter or Schmidt to offer to refund the commissions received in this matter to the seller; the seller in each transaction was Trend Homes, Porter's construction company. Ed.]

H-1922

Kenneth E. Ryan and Ross, Ryan & Neal, Inc.

Litchfield Park

DATE OF ORDER: November 7, 1997

FINDINGS OF FACT: Ryan was issued an original real estate broker's license in April 1996. That license expires April 30, 1998. Ryan is the designated broker of Ross, Ryan & Neal, Inc., a corporation licensed as a real estate broker. RRN was issued an original corporate real estate license in April 1991. The license expired on April 30, 1997.

On October 10, 1997, Ryan submitted an application for renewal of the corporate real estate license, disclosing that he and RRN had received \$32,186.93 in commissions, \$1,400 in property management fees and anticipated receipt of an additional \$2,874 in transactions which had not closed escrow.

Ryan attested that he believed he had renewed RRN's corporate real estate license earlier in 1997.

VIOLATIONS: Ryan and RRN conducted activities for which a current real estate license is required while not licensed to do so, in violation of A.R.S. § 32-2130(B). Ryan and RRN received compensation

while the entity license was expired, in violation of A.R.S. §§ 32-2153(A)(10) and 32-2155(A). Ryan and RRN demonstrated negligence in performing any act for which a license is required by continuing to work after RRN's license expired, in violation of A.R.S. § 32-2153(A)(22). Ryan and RRN disregarded or violated provisions of Arizona Revised Statutes, Title 32, Chapter 20, within the meaning of A.R.S. § 32-2153(A)(3).

DISPOSITION: Ryan and RRN, jointly and severally, shall pay a civil penalty in the amount of \$500. Ryan shall take six hours of approved real estate continuing education as specified by the Department in addition to hours required for license renewal.

Ryan and RRN shall offer to refund or not accept commissions and property management fees which they earned after the entity license expired. Ryan and RRN shall re-make or have ratified by the property owner each listing agreement executed during the unlicensed period.

H-1901

**John D. Kelly
Hoboken, NJ**

DATE OF ORDER: November 18, 1997

FINDINGS OF FACT: Respondent was issued an original real estate salesperson's license in July 1996. The license has been on inactive status since it was issued.

In his license application, Respondent disclosed that he had been charged twice, in February and in April, 1984, with Indecent Exposure.

The Department determined that Respondent was convicted of Public Sexual Indecency in Scottsdale City Court in 1984, of Indecent Exposure in Tempe Municipal Court in 1984, and to Indecent Exposure in Phoenix Municipal Court in 1996 for which he served a jail sentence and was placed on probation which is expected to continue until November 1999.

VIOLATIONS: Respondent has been convicted of crimes of moral turpitude or like offenses, in violation of A.R.S. § 32-2153(B)(2). His conduct, actions and criminal convictions show he is not a person of honesty, truthfulness and good character within the meaning of A.R.S. § 32-2153(B)(7).

DISPOSITION: Respondent's real estate salesperson's license is revoked.

H-1920

Barry F. Kramer and Desert Foothills Real Estate Co, Inc., dba Keller Williams Realty-Ahwatukee Foothills and Carole Morlaine Saylor

Phoenix and Peoria

DATE OF ORDER: November 20, 1997

FINDINGS OF FACT: Ahwatukee Foothills is a

corporation which became licensed as a real estate broker in March 1995. Kramer was issued an original real estate broker's license in March 1993. At all times material to this matter Kramer was the designated broker for Ahwatukee Foothills.

Saylor was issued an original real estate salesperson's license in January 1995. At all times material to this matter she was employed as a salesperson by Kramer and Ahwatukee Foothills.

On March 31, 1997, Kramer renewed the license for Ahwatukee Foothills and notified the Department that the license for the Scottsdale branch office would not be renewed. At all times up to and including March 31, 1997, Saylor had been employed at the Scottsdale branch office.

The Department made repeated requests of Kramer from March 31, 1997 through June 5, 1997 asking that he file the necessary form to transfer Saylor, the sole licensee at the non-existent Scottsdale branch office to the main office.

On June 5, 1997, the Department received from Kramer a photocopy of a transfer form for Saylor, signed and dated by Kramer on March 31, 1997, and by Saylor on April 28, 1997. The next day, the Department mailed a notice to Kramer that the original transfer, bearing original signatures, must be filed with the Department on or before July 7, 1997.

On July 2, 1997, Kramer delivered to the Department a severance form bearing his signature as severing broker. The severance form was not signed by Saylor. There was, at the time of this order, no hire form on file with the Department and Saylor's license has been on inactive status since July 2, 1997.

From July 2, 1997 through September 1, 1997, Saylor provided real estate services for which a license is required without being properly licensed to do so.

In a statement to the Department, Saylor disclosed she was involved in one real estate transaction during the unlicensed period and anticipated receipt of a commission of \$2,011.68. Ahwatukee Foothills and Kramer anticipated a commission of \$1,176.82 in connection with the transaction.

In mitigation, Kramer states that he and Saylor each filed or attempted to file the required transfer, and that the July 2, 1997 severance was accompanied by a hire form. This was required when the company changed its name by adopting the Keller Williams Realty franchise. Kramer has produced no evidence to corroborate his statements.

VIOLATIONS: Kramer, on behalf of Ahwatukee Foothills, paid or anticipated paying compensation to a salesperson who was not in its employ in violation of A.R.S. §§ 32-2153(A)(10). Kramer, as designated broker for Ahwatukee Foothills, failed to exercise reasonable supervision over the activities of licensees under its employ, in violation of A.R.S. § 32-2153(A)(21). DISPOSITION: Kramer and Ahwatukee Foothills, jointly and severally, shall pay a civil penalty in the amount of \$500.

Saylor shall take six hours of approved real estate continuing education, in addition to hours required for renewal, as specified by the

Department.

Kramer, as designated broker for Ahwatukee Foothills, shall develop and implement in-house procedures for tracking and ensuring the current license status of each broker and salesperson under its employ. A copy of the written procedures shall be submitted to the Department's Compliance Officer.

Kramer and Ahwatukee Foothills shall pay compensation only to active licensees in their employ, in compliance with A.R.S. § 32-2155(A).

Should she activate her license, Saylor shall ensure that a correct and current active-status license is issued reflecting the name of her employing broker, and shall accept compensation only from the broker to whom she is licensed.

Change in mandated CE hours proposed

Real Estate Commissioner Jerry Holt has proposed a significant change in continuing education required for real estate license renewal in a revision of Commissioner's Rule A.A.C. R4-28-401(G). The change is part of the Department's proposed Rule Package currently in the rule-making process. If adopted, the rule change would be effective in six months to a year.

While the number of hours required for license renewal (24) would not change, the number of hours to be taken in certain prescribed subjects would be reduced, giving licensees the option of taking elective courses most appropriate for their real estate specialty.

The proposed change results from recommendations made by the Commissioner's Task Force on Continuing Education formed on June 24, 1997. The Commissioner approved the Task Force's final recommendations on October 6, 1997.

A.R.S. § 32-2130(A) requires licensees who wish to renew a real estate license to attend continuing education courses at a school certified by the Commissioner. The Commissioner may determine the number of classroom hours required, up to 24, and "prescribe and approve" the subject matter of the courses offered.

Currently, pursuant to Commissioner's Rule R4-28-401(G), licensees are required to attend 24 classroom hours. Eighteen hours are prescribed, three each in the following subjects:

- Arizona Real Estate Law

www.FannieMae.com offers a wealth of information

Reprinted from the Fall 1997 edition of FannieMae Partnership News.

Useful, up-to-date information for lenders, real estate agents, non-profit organizations, government officials and other partners is now available on the Fannie Mae home page on the World Wide Web.

Introduced two years ago, the home page (www.FannieMae.com) was augmented in January by a companion site (www.HomePath.com) created to offer consumers home-buying and refinancing information.

Fannie Mae's home page opens to an easy-to-access digest featuring key sections and new information. The first page also links you to Home-Path®, the consumer information site, and the Fannie Mae Foundation site.

FannieMae.com is a source of a broad range of information regarding the company, its operations, the mortgage market, how to do business with the company, and mortgage information for consumers. Recent features include a report containing the details of Fannie Mae's trillion-dollar commitment to affordable and targeted housing initiatives, information on Fannie Mae's new Electronic Debt Document Distribution Facility, a history of Fannie Mae's yields and details about new products

and services.

Lenders will find information on the latest publications and seminars, Guide Announcements, Lender Letters and new information about technology products. Also useful is information on HUD median income limits for specific MSAs, counties and states, a history of Fannie Mae yields and Fannie Mae's LIBOR index.

The home page offers lenders new to the secondary market information on getting started, as well as a place for users of Fannie Mae products and services to provide direct feedback.

Information on Fannie Mae-owned homes in any of the 50 states is available by property type, price range and state, along with the name of the listing realty firm.

HomePath.com, a site for consumers seeking home-buying information, effectively creates an electronic mortgage marketplace.

Reinforcing Fannie Mae's pledge to make housing finance more accessible, HomePath.com provides lists of local lenders who offer Fannie Mae products, direct access to lender web sites, access to home-buying guidance and referral services and information about Fannie Mae products and the mortgage finance system.

- Contract Law
- The Commissioner's Rules
- Fair Housing Issues
- Agency Law
- Environmental Issues

If the rule change is adopted, the number of required hours will not be reduced, but only 12 hours of study will be prescribed, three each in the following areas:

- Agency Law
- Commissioner's Standards
- Contract Law
- Real Estate Legal Issues

The remaining 12 non-prescribed hours would be called "elective" rather than "general" hours. Elective courses would have to be in subject areas approved by the Commissioner. As before, licensees would be limited to three hours of "self-improvement" elective course credit.

Before provisions of the "1997 Real Estate Omnibus Bill" became effective on July 21, 1997,

newly-licensed salespersons had 90 days after licensure to complete a six-hour course in real estate contract law and contract writing. A provision of the bill, an amendment to A.R.S. § 32-2124, now requires applicants for a salesperson's license to complete the course before they may be granted an active license.

Presently, those who complete the course receive three hours of continuing education credit in contract law and three hours in real estate law. Under the revised rule, the course, which is given by most certified Arizona real estate schools, would provide the student with three hours of contract law credit and three hours of elective credit.

The Commissioner has certified 73 real estate schools in Arizona, 63 of which offer more than 7,000 continuing education courses from which the real estate licensee may fulfill continuing education requirements.

Real estate exams to be overhauled

Continued from page 1

time is as absolutely as fair as possible.

If you were to visit the ASI test facility in Phoenix, you might see 30 people taking the real estate salesperson's examination at the same time. What you could not see is that three completely different examinations are being given to the 30 people (only 10 of them are looking at exactly the same examination), and that the test questions are numbered differently for each applicant.

If Applicant A takes the test on Monday, and tells Applicant B (who is scheduled to take the test Tuesday) that "Question 27 was really difficult, but the answer is 49 cubic hectares," it would be of no help to Applicant B who might not encounter the question at all. If Applicant B did, it certainly wouldn't be Question 27.

A computer analysis of test scores identifies questions that nearly every one answers correctly, or that almost no one answers correctly, and these questions are eliminated. Questions are tested nationwide before they become part of the actual examination to determine how many people can answer them correctly, and how many of these people can pass the actual examination. Each question is then assigned a "weight" and each examination is designed so that the sum of the weights of all the questions matches a predetermined value.

"We've known for some time that among all the states that use ASI to design and administer their real estate examinations, Arizona has the highest passing rate. This is a tribute to the quality of prelicensure education being offered by Arizona real estate schools," Bechtold said.

Late renewal can mean loss of commissions

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fact, you may, in special cases, renew more than 90 days before license expiration.

If you do not receive a renewal application or have questions about license renewal, call the Department's Customer Service Division at (602) 468-1414, extension 100 (in area code 520 call 628-6940) or send e-mail to adre@adre.org. If you use e-mail, please include your Postal Service mailing address and telephone number.

You may also obtain a renewal form from the Department's Fax Response Service if your fax number is in area code 602 or 520. Call (602) 468-1414, and when you hear the voice greeting press 3. When asked whether you wish a document or catalog, press 1. When asked for a document number, press 3003 for a salesperson/associate broker renewal form, 3004 for a designated broker renewal form, or 3010 for an entity renewal form. The form will be faxed to you immediately.

Lead paint enforcement begins

Continued from page 2

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Bulk copies are available from the Government Printing Office at (202) 512-1800. Refer to the complete title, "Protect Your Family from Lead in Your Home," or GPO stock number 555-000-

How to contact ADRE by phone, fax and modem

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(602) 468-1414

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Education and Licensing

(602) 955-6284

Subdivisions

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Customer Services—Extension 100

Public Information Officer—Extension 168

TUCSON OFFICE

(520) 628-6940

fax (520) 628-6941

FAX RESPONSE SERVICE

(602) 468-1414, Extension 3

WORLD WIDE WEB

www.adre.org

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cdowns@adre.org

We find it difficult to understand how, in such a deadline-intensive business as real estate, a broker and employee can lose track of the most important deadline they have.

00577-9. The price is \$26 for a pack of 50 copies.

The pamphlet is also available electronically from:

www.epa.gov/docs/lead_pm

or

[ftp.epa.gov](ftp://ftp.epa.gov)

To log into the ftp site, type "anonymous." Your password is your e-mail address.

For specific questions about lead-based paint and lead-based paint hazards, call the National Lead Information Clearing House.

Arizona Department of Real Estate
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